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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/663,601	09/18/2000	Jim B. Estipona	INTL-0450-US(P9561)	4352

7590 05/05/2005
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EXAMINER

HUYNH, SON P

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/663,601	Applicant(s) ESTIPONA, JIM B.	
	Examiner Son P. Huynh	Art Unit 2611	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 March 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-30.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because:


Applicant argues the reference (Feinleib) would not "modify the way the television program is displayed" (page 2, paragraphs 2, line 6).

In response, examiner respectfully disagrees. Feinleib discloses enhancing content is to manipulate the manner in which the primary content is being display. For instance, a content producer might wish to modify the video window in which the primary content is being displayed and concurrently introduce text or graphical data alongside or overlaid atop the primary content (col. 5, lines 57-62). Feinleib further discloses one example of enhancing content is to launch an application, such as electronic mail, and the producer might timely launch an electronic mail program at a specific point near the end of the program to present a new mail message with the "To" address filled in. The viewer can add comments and send the email message to the program's producer for immediate feedback (col. 6, lines 13-21). Since the electronic email is also enhancing content, the claimed feature of "modifying the way that the television program is displayed" is met modifying the video window in which the primary content is being displayed in response to receiving enhancing content (i.e., electronic mail, application, graphical data).

Applicant further argues Alexander does not disclose or suggest the "option of the user to elect to retain the enhancements after receiving the real time event". "Basically, there is not user ability to retain or not retain an enhancement in either Feinleib or Alexander." (page 3, lines 2-3 and lines 5-6).

In response, examiner respectfully disagrees. Alexander discloses displaying video program concurrently with enhancements (e.g., detail information of a video program being viewed, information of website associated with video program – figures 1, 8, col. 17, line 48-col. 18, line 67), and the viewer selects to display video program in full mode or PIP mode (program video displays concurrently with enhancements) (col. 4, lines 13-27). Alexander further discloses while watching a program being tuned, the viewer is provided with a notification to alert the viewer to any number of possible items of information. For example, the notification notifies the viewer that a program that may be of interest will be broadcast on another channel. The EPG could then ask if the viewer want to view or record the program on another channel. If the viewer indicates that the viewer wants to watch the program on the other channel, then the EPG will automatically tune to the other channel at the appropriate time. If the viewer indicates that the viewer does not want to watch the program on the other channel, the viewer will continue to watch the program being tuned (col. 13, line 48-col. 14, line 22). Thus, the feature "the user to elect to retain the enhancements after receiving the real time event" is broadly met by the viewer elect (e.g., PIP mode, full screen mode, watch another channel) to retain enhancements (detail information, information from website, information on the another channel, etc.) after receiving the real time event (e.g., viewer commands, notification).

For reasons given above, rejections on claims 1-30 are maintained.



CHRIS GRANT
PRIMARY EXAMINER